

# Exhibit D

GIBSON DUNN

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March 4, 2022

**VIA EMAIL**

Mr. Daniel Isaacs  
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Mr. Peter Gleason  
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Re: J.C. v. Zimmerman, 22-cv-323-KPF (S.D.N.Y.)

Dear Counsel:

As you are aware, Federal Rule of Civil Procedure 26(f) imposes an obligation on parties to meet and confer in good faith to enable the parties to jointly submit to the Court a proposed case management plan and discovery scheduling order. Our initial pretrial conference with the Court is scheduled for March 18. Rule 26(f)(1) states the parties “must confer as soon as practicable—and in any event at least 21 days before a scheduling conference is to be held . . .” That means you were required by the Federal Rules to meet and confer with us no later than Friday, February 25. We were scheduled to meet and confer on Wednesday, February 23, but you cancelled our call just hours before. At your request, we rescheduled for Wednesday, March 2. You cancelled our Rule 26 conference for a second time the day before it was scheduled on the basis that you would “be filing a premotion letter to the Court seeking permission to file a motion that seeks an Order recusing [my] firm.”

The Federal Rules do not permit a party to unilaterally declare a “stay” of the Rule 26 obligations. Under Judge Failla’s Individual Rules, the parties are required to submit a proposed case management plan and scheduling order to the Court by this Thursday, March 10. We direct your attention to the Advisory Committee Notes to Rule 26, which state, “[u]nfortunately, there may be cases in which, because of disagreements about time or place or for other reasons, the meeting is not attended by all parties or, indeed, no meeting takes place. In such situations, the report—or reports—should describe the circumstances and the court may need to consider sanctions under Rule 37(g).”

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Please provide three times you are available to conduct the Rule 26 conference this weekend or on Monday, March 7. If you do not, we reserve all rights under Rule 26, Rule 37 and otherwise.

Sincerely,

/s/Orin Snyder

cc: Andrea Schillaci